



11-08-07

3627

# Walker & Jocke

a legal professional association

Ralph E. Jocke  
Patent  
&  
Trademark Law

November 7, 2007

Director of Technology Center 3600  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Attn: Art Unit 3627  
Patent Examiner Oger Garcia Ade

Re: **Application No.:** 09/849,625  
**Applicants:** McGrady, et al.  
**Confirmation No.:** 9504  
**Title:** Method of Tracking and  
Dispensing Medical Items  
**Docket No.:** D-1137

Sir:

Please find enclosed a Petition pursuant to 37 C.F.R. § 1.181 for Withdrawal of Holding of Abandonment. A copy of Applicants' Reply previously filed on February 7, 2007 and a copy of the return receipt postcard associated therewith are also enclosed.

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the Petition, and any other fee due, to Deposit Account 10-0637.

Very truly yours,

Ralph E. Jocke  
Reg. No. 31,029

**CERTIFICATE OF MAILING BY EXPRESS MAIL**

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Director of Technology Center 3600, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 this 7th day of November 2007.

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Ralph E. Jocke

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FACSIMILErej@walkerandjocke.com  
E-MAIL

231 South Broadway, Medina, Ohio U.S.A. 44256-2601



D-1137

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
<b>McGrady, et al.</b>	)	
	)	
Application No.: <b>09/849,625</b>	)	Art Unit 3627
	)	
Confirmation No.: <b>9504</b>	)	
	)	
Filed: <b>May 4, 2001</b>	)	Patent Examiner
	)	Oger Garcia Ade
	)	
Title: <b>Method of Tracking and</b>	)	
<b>Dispensing Medical Items</b>	)	

Director of Technology Center 3600  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

Applicants received a Notice of Abandonment dated October 31, 2007. Applicants respectfully petition that the improper holding of abandonment be withdrawn because a proper reply was timely filed on February 7, 2007 in response to the Office letter of January 19, 2007.

The Abandonment Notice indicates that Applicants failed to timely file a proper reply to the Office letter mailed on January 19, 2007, which set a three (3) month period to reply. The Applicants respectfully disagree. A proper reply (Reply) was in fact timely filed on February 7, 2007 as Express Mail Post Office with the U.S. Postal Service.

1. The USPTO's own PAIR system shows that the Reply was timely filed on February 7, 2007. The Reply can be found in the image section under the date of February 7, 2007.

Nevertheless, as a courtesy to the Office a copy of the Reply (and its cover letter) captured from the PAIR system is enclosed herewith.

2. Applicants enclose additional evidence herewith showing that the Reply was timely filed. Enclosed is a copy of the return receipt postcard having the application number, docket number, item listing (i.e., "response to 1/19/07 office action"), Express Mail number, and USPTO mail date stamp thereon. The USPTO mail date stamp shows that Applicants' Reply was physically received in the USPTO on February 9, 2007.

The return receipt postcard serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO (MPEP § 503). Therefore, the return receipt postcard, with the listings thereon having been checked by the USPTO with the items actually filed in accordance with MPEP § 503, confirms the Reply was indeed timely filed.

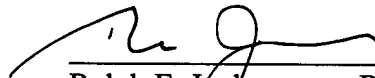
3. Furthermore, as can be seen, the express mail number EV954010080US on the stamped return receipt postcard corresponds to the express mail number on the Reply's cover letter.

Thus, Applicants have presented evidence that a proper reply was timely received by the USPTO in response to the Office letter mailed on January 19, 2007. Therefore, Applicants petition that the Abandonment Notice be withdrawn and their Reply be rightfully entered.

**Conclusion**

Applicants respectfully request that their petition be granted for the reasons presented herein. The undersigned is willing to discuss any aspect of the Application.

Respectfully submitted,



Ralph E. Jocke      Reg. No. 31,029  
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Medina, Ohio 44256  
(330) 721-0000

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

COMMISSIONER FOR PATENTS  
PO BOX 1450  
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A. Signature

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B. Received by (Printed Name)

C. Date of Delivery

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☒ Express Mail

☐ Return Receipt for Merchandise

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

EY954010080US  
(Transfer from service label) D-1137

09/819,625  
Resp 011907 OA + Petition

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



02-09-07

IFW

3627

Walker  
&  
Jocke

a legal professional association

Ralph E. Jocke

Patent  
&

Trademark Law

February 6, 2007

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

COPY

Attn: Art Unit-3627  
Patent Examiner Oger Garcia Ade

Re: Application No.: 09/849,625  
Applicants: McGrady, et al.  
Confirmation No.: 9504  
Title: Method of Tracking and  
Dispensing Medical Items  
Docket No.: D-1137

Sir:

Please find enclosed Applicants' Response to the Office Action dated January 19, 2007 for filing in the above identified Application. Also enclosed is a "Petition for withdrawal of restriction requirement" for filing pursuant to 37 C.F.R. § 1.181.

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the Response and the Petition, and any other fee due, to Deposit Account 10-0637.

Very truly yours,

Ralph E. Jocke  
Reg. No. 31,029

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 this 7th day of February 2007.

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231 South Broadway, Medina, Ohio U.S.A. 44256-2601



D-1137

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
McGrady, et al.

Application No.: 09/849,625

Confirmation No.: 9504

Filed: May 4, 2001

Title: Method of Tracking and  
Dispensing Medical Items

Art Unit 3627

Patent Examiner  
Steven McAllister

COPY

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action ("Action") dated January 19, 2007, kindly enter

Applicants' "Request for Clarification" without prejudice as follows:

### **Request for Clarification**

Applicants request clarification and correction of the record. The Action is incomplete because it does not permit Applicants to submit a full response to every issue.

Claims 1-4, 9, 13-16, and 18-21 are pending. Reconsideration is respectfully requested.

### **Applicants Request that all documents to be listed on form PTO-892**

The record shows that the Action refers to at least one document that has not been listed on form PTO-892. For example, note reliance in the Action on the document King, et al. (WO 98/50840). Correction of the record is requested. MPEP § 707.05(g).

### **Applicants Request a copy of a document relied upon in the Action**

The record shows that the relied upon document to King, et al. (WO 98/50840) is neither a U.S. patent nor a published U.S. application. Nor has a copy of the relied upon document been furnished to Applicants. Applicants respectfully request a copy of the relied upon document. MPEP § 707.05(a).

### **Request for a new period to reply**

Applicants request that the Office restart the time for reply in accordance with MPEP § 710.06. Applicants reserve all rights to provide additional response (e.g., remarks, amendment, etc.) to the Action.

### **Request for treatment of the application as special**

The record shows that this application has been pending more than five (5) years. In accordance with MPEP § 708.01 (I) and § 707.02 this application is to be treated as a "special" case, which grants it receiving a very high examination priority and being advanced out of turn by the Examiner in the order of examination (MPEP § 708). Applicants respectfully request that the Office docketing system be modified to reflect the application having "special" status.

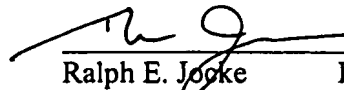


**Conclusion**

For reasons discussed above, clarification and correction of the record are requested.

Applicants respectfully submit that this application is in condition for allowance. The undersigned is willing to discuss any aspect of the Application by phone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke      Reg. No. 31,029  
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